

**OPENING STATEMENT OF REP.
EDWARD J. MARKEY (D-MA) SUBCOMMITTEE ON ENERGY AND POWER
OVERSIGHT HEARING ON FEDERAL
HYDROELECTRIC RELICENSING PROCESS**

SEPTEMBER 25, 1998

Thank you, Mr. Chairman. I'd like to begin to commend you both for holding today's hearing and for your action at yesterday's markup to defer full Committee markup of S. 439, a bill which would have made unwarranted changes in the laws governing the hydroelectric licensing process.

As I've reviewed the testimony of the industry witnesses appearing at today's hearing, I find singularly unconvincing the argument that we need to make radical changes in the hydroelectric relicensing process. While I understand that the industry finds the complexity of the relicensing process frustrating, I must note that licensees hold their licenses for up to 50 years. The relicensing process provides the public with an opportunity to assure that critical environmental, recreational, navigational, flood control, irrigation, other values are being properly served. From 1985 to 1986, I spent considerable time and effort, as the Chairman of the Energy Conservation and Power Subcommittee, in forging the consensus that became the Electric Consumers Protection Act of 1986, or ECPA.

That legislation included provisions that required that FERC base its recommendations for mitigating the adverse effects of a license on the recommendations of Federal and State resources agencies and mandated that FERC negotiate with those agencies in the event of disagreements. ECPA also required FERC to give equal consideration to the environment, fish and wildlife, and other nonpower values as it gives to power and development objectives in making licensing decisions. Congress enacted these reforms then because it was concerned that FERC was not according sufficient weight to environmental and nonpower concerns as it reviewed requests for relicensing of hydroelectric facilities.

I would note that when we passed EPCA, we did so with unanimous bipartisan support of Members of the Committee and of the House and with the endorsement of both the environmental community and the support of the electric utility industry, including the Edison Electric Institute and other industry trade associations. Indeed, the legislative history of the bill shows that it had the support of such wild eyed liberals as James McClure, Malcom Wallop, Frank Murkowski, Mike Oxley, Richard Shelby, Norm Lent, Carlos Moorhead, Bill Danemeyer, and Ted Stevens. There were no calls at the time for repeal or weakening of the resource agencies mandatory conditioning authority back then, even though this authority had been exercised by the agencies for decades. So what has changed? Little that I can see, other than the fact that FERC, at the direction of Congress, must now give greater weight to the adverse environmental effects of a dam when it considers relicensing. Since many of the dams that are coming up for relicensing were first licensed before Congress enacted many of the environmental laws now on the books, it is inevitable that the industry will in some cases be required to take actions to rectify harm to fish and wildlife, natural habitat, recreational or other values. In my view, industry has a very high burden of proof to meet if it is to seek alternations in the process that might sacrifice these critical nonpower values.

I look forward to the testimony of the witnesses this morning on this matter, and to assuring that the integrity of the hydroelectric relicensing process remains intact.